

Schweet Linde & Coulson, PLLC
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Honorable Chief Judge Whitman L. Holt
Chapter 11

IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In re:

MCCARY MEATS, LLC,

Debtor.

Case No.: 20-01469-WLH11

SUBPOENA DUCES TECUM

TO: MCCARY MEATS, LLC
C/O JOHN O'LEARY
GRAVIS LAW, PLLC
601 WEST KENNEWICK AVE
KENNEWICK, WA 99336

YOU ARE COMMANDED to designate an agent to appear on behalf of McCary Meats, LLC, pursuant to a court order issued under Fed. R. Bankr. P. 2004, at the place, date, and time specified below to testify at the taking of a deposition, which may be audio or stenographically recorded in the presence of a court reporter, in the above case.

PLACE: Offices of Schweet Linde & Coulson, PLLC,
575 S. Michigan St., Seattle, WA 98108¹

DATE & TIME: October __, 2021, at 9:30 a.m. prevailing Pacific Time

YOU ARE FURTHER COMMANDED to produce and permit inspection and copying of the documents or objects listed on attached Exhibit A at the place, date and time specified below:

¹ Deposition may take place using remote applications such as Zoom, Microsoft Teams, Skype, or other telephonic or remote video applications.

1 **PLACE: Offices of Schweet Linde & Coulson, PLLC,**
2 **575 S. Michigan St., Seattle, WA 98108²**

3 **DATE & TIME: October __, 2021, at 5:00 p.m. prevailing Pacific Time**
4

5 _____
6 ISSUING OFFICER SIGNATURE AND TITLE

DATE: September __, 2021.

7 Michael L. Parrott, Attorney, WSBA #55703

8 ISSUE OFFICER'S NAME, ADDRESS, AND PHONE NUMBER

9 Michael L. Parrott
10 575 S. Michigan St.
11 Seattle, WA 98108
12 (206) 381-0136
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² Documents may also be produced electronically as agreed to by the issuing attorney

EXHIBIT A

I. INSTRUCTIONS

To the extent you assert a privilege regarding production of documents or other information, you are required to provide a log of such documents that (1) identifies the document, (2) provides a clear statement of grounds for the asserted privilege, (3) identifies the date of the document, and (4) provide a description of the document sufficient for evaluation of the asserted privilege.

II. DEFINITIONS

As used throughout this Exhibit, the following definitions apply:

- A. "And" shall also mean "or" and vice versa as necessary to give the particular interrogatory the broadest and most inclusive scope.
- B. "Any" shall also mean "all" and vice versa as necessary to give the particular interrogatory the broadest and most inclusive scope.
- C. "Bankruptcy" shall mean the Chapter 11 bankruptcy filed by McCary Meats, LLC in the Eastern District of Washington Bankruptcy Court under Case No. 20-01469-WLH11.
- D. "Bank Accounts" shall mean any and all accounts Debtor has/had an interest in since the Petition Date, including but not limited to, checking accounts, savings accounts, investment accounts, money-market accounts, and/or retirement accounts.
- E. "Communication" shall mean any transmission of information by written or oral communication (e.g., letter, memorandum, meeting, face to face conversation or telephone conversation), regardless of the medium by which such communication occurred, and any process by which information is transmitted.
- F. "Covered Dates" shall mean March 1, 2021 through August 31, 2021
- G. "Date" shall mean the day of the month, the month and the year. If only the approximate date is known or available, state the approximate date, indicating that it is the approximate date.
- H. "Debtor" shall mean the Debtor in the Bankruptcy: McCary Meats, LLC.
- I. "Document" or "Documentation" shall mean any instrument on which is recorded letters, figures, marks or other conventional symbols so as to represent ideas on material substances, including but not limited to writings by hand, typed words, printed or

1 lithographed words, photographs, pictures, slides, videotapes, microfilm, electronic or
2 magnetic recordings, computer input or print-outs, computer tapes or disks, computer files,
3 electronic mail, prints, maps and plats. It includes any document of which you have
4 possession or of which you have the right to obtain the original or a copy from another
person or entity having actual possession thereof. If any document was, but is no longer
in your possession or subject to your control, identify the document and state its present
location or the disposition made of it and the date thereof.

5 J. "Draft" or "Drafted" shall mean the process of handwriting or the utilization of a word
6 processor or other mechanism to prepare a draft or final document.

7 K. "Identify" when used in reference to a natural person requires you to state that person's full
8 name, last known address, home and business telephone number and current business
9 affiliation; when used in reference to an entity other than a natural person requires you to
10 describe the nature of the entity (partnership, corporation, etc.) and state the last known
11 address, including registered agent address, telephone number and principal place of
business; and when used in reference to a document requires you to state the date, author,
signors and type of document (letter, memorandum, etc.). Once a person, entity or
document has been identified properly, it is sufficient to state the name only in subsequent
responses.

12 L. "Person", "Persons", and/or "Person(s)" shall mean any natural person or individual or any
13 legal or governmental entity (including, without limitation, any corporation, company,
14 partnership, association, joint venture, trust, public agency, political subdivision,
department, bureau, or board).

15 M. "Petition Date" shall mean July 24, 2020.

16 N. "Plan" shall mean the Debtor's confirmed plan of reorganization filed in the Bankruptcy
17 at ECF Dkt. 80.

18 O. "Relating to" (or a form thereof) shall mean constituting, concerning, reflecting,
19 representing, supporting, contradicting, referring to, stating, describing, recording, noting,
20 embodying, containing, mentioning, studying, analyzing, discussing, evaluation, or
relevant to. As indicated, the term necessarily includes information that is in opposition to
as well as in support of your position(s) and claim(s) in this action.

21 P. "Schedules" shall mean Debtor's Official Forms 106A/B through 106J filed in the
22 Bankruptcy at ECF No. 1, and any subsequent amendments thereto.

23 Q. "SoFA" shall mean Debtor's Official Form 107 filed in the Bankruptcy at ECF No. 1, and
any subsequent amendments thereto.

24 R. "Tax Returns" shall mean any report required to be submitted to a local, state or federal
25 agency to which the Debtor is obligated to make such a report.
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III. DOCUMENTS FOR PRODUCTION

1. Please produce a statement of all cash receipts and disbursements by or from Debtor for the Covered Dates.
2. Please produce a monthly profit and loss statement for the Debtor for the Covered Dates.
3. Please produce all statements for the Covered Dates for Bank Accounts.
4. Please produce all Tax Returns filed by the Debtor during the Covered Dates.
5. Please produce a current accounts receivable aging report for the Debtor as of August 31, 2021.
6. Please produce a current accounts payable aging report for the Debtor as of August 31, 2021.
7. Please produce proof of payment for any obligation paid pursuant to the Plan during the Covered Dates.
8. Please produce proof of payment for any distributions by Debtor to Deanna McCary or Rick McCary during the Covered Dates.
9. Please produce an account summary for all merchant accounts of the Debtor, including, but not necessarily limited to, Square.
10. Please produce a check register for the Debtor for the Covered Dates.

**PLEASE SEE THE FOLLOWING PAGES FOR IMPORTANT INFORMATION
REGARDING YOUR DUTIES PURSUANT TO THIS SUBPOENA**

Fed. R. Civ. P. 45(d) and (e)

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly

1 return, sequester, or destroy the specified information and any copies it has; must not use or disclose the
2 information until the claim is resolved; must take reasonable steps to retrieve the information if the party
3 disclosed it before being notified; and may promptly present the information under seal to the court for the
4 district where compliance is required for a determination of the claim. The person who produced the
5 information must preserve the information until the claim is resolved.
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